

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MOHAMED ABDULKADIR,

Petitioner,

vs.

SCOTT R. FRAKES, Director of
Corrections; and BRAD HANSEN,
Warden at TSCI;

Respondents.

8:17CV142

**MEMORANDUM
AND ORDER**

This matter is before the court on Petitioner's "Notice of Intent to File Petition for Writ of Habeas Corpus." ([Filing No. 1.](#)) The court understands Petitioner to file his "Notice" to toll the one-year statute of limitations set forth in [28 U.S.C. § 2244\(d\)](#) until he files his actual habeas petition.

The court hereby notifies Petitioner that it intends to characterize his pleading entitled "Notice of Intent to File Petition for Writ of Habeas Corpus" as an actual [28 U.S.C. § 2254](#) habeas petition. Petitioner is further notified that if his pleading is so characterized, any subsequent § 2254 habeas petition filed by him will be subject to the restrictions on "second or successive" motions. Accordingly, Petitioner is given the opportunity to withdraw his pleading in this case or to amend his pleading so that it sets forth all of his claims. If Petitioner withdraws his pleading, the court will dismiss this matter without prejudice. If Petitioner (1) takes no action or (2) amends his pleading, Petitioner shall submit the \$5.00 filing fee to the clerk's office or submit a request to proceed in forma pauperis before the court will take any further action.

IT IS THEREFORE ORDERED that:

1. Petitioner shall no later than **May 26, 2017**, withdraw his pleading entitled “Notice of Intent to File Petition for Writ of Habeas Corpus” or amend his pleading so that it sets forth all of his claims.
2. Petitioner shall no later than **May 26, 2017**, submit the \$5.00 filing fee to the clerk’s office or submit a request to proceed in forma pauperis if he intends to pursue this matter.
3. The clerk of the court is directed to send to Petitioner the Form AO240 (“Application to Proceed Without Prepayment of Fees and Affidavit”) and the Form AO241 (“Petition Under [28 U.S.C. § 2254](#) for a Writ of Habeas Corpus”).
4. The clerk’s office is directed to set the following pro se case management deadline in this matter with the following text: **May 26, 2017**: Check for (1) MIFP or payment and (2) motion to withdraw or amended habeas petition.

Dated this 27th day of April, 2017.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge